

1 THE HONORABLE JOHN C. COUGHENOUR
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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 AZEEM MODAK,

11 Plaintiff,

CASE NO. C19-1198-JCC

12 v.

ORDER

13 VALLEY ELECTRIC,

14 Defendant.

15 This matter comes before the Court on Defendant's motion for judgment on the pleadings
16 (Dkt. No. 12). Defendant filed its motion on February 20, 2020. Plaintiff has failed to respond to
17 Defendant's motion.

18 A motion for judgment on the pleadings brought under Rule 12(c) "faces the same test as
19 a motion under Rule 12(b)(6)." *McGlinchy v. Shell Chem. Co.*, 845 F.2d 802, 810 (9th Cir.
20 1988). Thus, "judgment on the pleadings is properly granted when, taking all allegations in the
21 pleading as true, the moving party is entitled to judgment as a matter of law." *McGann v. Ernst*
22 & *Young*, 102 F.3d 390, 392 (9th Cir. 1996). Under Ninth Circuit precedent, if a plaintiff fails to
23 respond to a defendant's motion to dismiss, then a district court may dismiss the case without
24 reaching the merits. See W.D. Wash. Local Civ. R. 7(b)(2); *Ghazali v. Moran*, 46 F.3d 52, 53–54
25 (9th Cir. 1995) (affirming district court's dismissal without prejudice); *Marcus v. ABC Signature*
26 *Studios, Inc.*, 279 F. Supp. 3d 1056, 1063 (C.D. Cal. 2017). Because the same test applies to

1 judgment on the pleadings, that approach is appropriate here. Consequently, the Court
2 DISMISSES Plaintiff's complaint without prejudice. The Clerk is DIRECTED to close this case.
3 DATED this 7th day of May 2020.

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John C. Coughenour
UNITED STATES DISTRICT JUDGE